



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/542,329 | 07/13/2005 | Masao Shimizu | B-5770PCT 622825-8 | 1727 |
| 7590 | 02/18/2009 | | EXAMINER | |
| Richard P Berg Ladas & Parry Suite 2100 5670 Wilshire Boulevard Los Angeles, CA 90036-5679 | | | KOZIOL, STEPHEN R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2624 | |
| | | | MAIL DATE | |
| | | | 02/18/2009 | DELIVERY MODE |
| | | | | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/542,329 | SHIMIZU ET AL. | |
| | Examiner | Art Unit | |
| | STEPHEN R. KOZIOL | 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11/14/2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-3 and 7-9 is/are allowed.
 6) Claim(s) 4-6 and 10-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 07/13/2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

Detailed Action

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 4-6 and 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claims 4-6 and 10-12 as amended 11/14/2008 each recite new matter.

By the amendment filed 11/14/2008, each of claims 4-6 and 10-12 now recite “a computer-readable medium.” However, the originally filed specification does not disclose or provide support for the recitation of “a computer-readable medium” or its equivalents as presently claimed. It is noted that the addition of “a computer-readable medium” to the instant claims was made to overcome a previously outstanding 35 U.S.C. § 101 rejection as advanced in the previous Office action (non-final Office action, mailed 09/23/08, pages 3-5, “the previous action”). However, page 4 of the previous action states “any amendment to the claims should be commensurate with its corresponding disclosure.” Since the amendment introducing “a computer-readable medium” into each of claims 4-6 and 10-12 is not commensurate with its corresponding disclosure, “a computer-readable medium” constitutes new matter, and each of claims 4-6 and 10-12 is rejected under 35 U.S.C. 112, first paragraph.

Allowable Subject Matter

3. Claims 1-3 and 7-9 are allowed.
4. Each of claims 1-3 and 7-9 is a process claim and has been analyzed in light of the “machine or transformation” test elucidated in In re Bilski. Claims 1-3 and 7-9 are found to comply with the machine prong of the “machine or transformation” test. Claims 1-3 and 7-9 require performing N-dimensional similarity space sub-pixel matching comprising determining an intersection point of N-dimensional hyperplanes and setting said intersection point as a sub-sampling grid estimation position. The above-noted steps, which are critical to the inventive concept, cannot reasonably be performed manually, and thus would necessarily require a particular machine (e.g. an image processor).

Conclusion

5. Applicant’s amendments necessitated the new grounds of rejection set forth herein; accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

Contact

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Koziol whose telephone number is (571) 270-1844. The examiner can normally be reached on Monday - Friday 9:00 - 5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached at (571) 272-7413 . Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-7332.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

02/11/2009
/s r k /

/Samir A. Ahmed/
Supervisory Patent Examiner, Art Unit 2624